

**GREENBERG TRAUERIG, LLP**  
10845 Griffith Peak Drive  
Suite 600  
Las Vegas, Nevada 89135  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

1 ERIC W. SWANIS, ESQ.  
Nevada Bar No. 6840  
2 **GREENBERG TRAUERIG, LLP**  
10845 Griffith Peak Drive, Suite 600  
3 Las Vegas, Nevada 89135  
Telephone: (702) 792-3773  
4 Facsimile: (702) 792-9002  
Email: [swanise@gtlaw.com](mailto:swanise@gtlaw.com)

5 LORI G. COHEN, ESQ.  
*Admitted Pro Hac Vice*  
6 **GREENBERG TRAUERIG, LLP**  
3290 Northside Parkway  
7 Atlanta, GA 30327  
Telephone: (678) 553-2385  
8 Facsimile: (678) 553-5386  
Email: [cohenl@gtlaw.com](mailto:cohenl@gtlaw.com)

9 C. WADE BOWDEN, ESQ.  
*Admitted Pro Hac Vice*  
10 **GREENBERG TRAUERIG, LLP**  
777 South Flagler Drive, Suite 300 East  
11 West Palm Beach, FL 33401  
Telephone: (561) 650-7922  
12 Email: [bowdenw@gtlaw.com](mailto:bowdenw@gtlaw.com)

13 CHRISTOPHER J. NEUMANN, ESQ.\*  
*\*Admitted Pro Hac Vice*  
14 **GREENBERG TRAUERIG, LLP**  
1144 15<sup>th</sup> Street, Suite 3300  
15 Denver, Colorado 80202  
Telephone: (303) 572-6500  
16 Email: [neumannc@gtlaw.com](mailto:neumannc@gtlaw.com)

17 *Counsel for Defendants*

18 **IN THE UNITED STATES DISTRICT COURT**  
19 **FOR THE DISTRICT OF NEVADA**

20 STEPHANIE SPILOTRO, as Guardian ad litem  
21 for JASON DUENAS,

22 Plaintiff,

23 v.

24 C. R. BARD, INCORPORATED and BARD  
25 PERIPHERAL VASCULAR, INCORPORATED,

26 Defendants.  
27  
28

Case No. 2:19-cv-01586-RFB-BNW  
**STIPULATION AND [PROPOSED]  
ORDER TO STAY**

Plaintiff Stephanie Spilotro, as Guardian ad litem for Jason Duenas (“Plaintiff”) and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (“Defendants”) (Plaintiff and Defendants are collectively referred to herein as the “Parties”) pursuant to Fed R. Civ. P. 26 and this Court’s inherent powers, respectfully request that this Court enter an Order temporarily staying discovery and all pretrial deadlines imposed by the Court, the Local Rules, and the Federal Rules of Civil Procedure for ninety (90) days to permit the parties to finalize their settlement of all claims.

## I. BACKGROUND

Plaintiff claims injuries related to the purported implantation of an Inferior Vena Cava (“IVC”) filter allegedly manufactured by Defendants. (ECF No. 1). The Parties have conducted various discovery, including depositions of the plaintiff’s guardian and medical providers, medical records collection, and initial and supplemental disclosures, but have reached an agreement in principle to resolve all claims. As such, the Parties hereby jointly move this Court to enter a stay of all discovery and pretrial deadlines in this case for a period of ninety (90) days.

## II. ARGUMENTS AND AUTHORITIES

### A. This Court Has Authority to Grant the Requested Stay

Pursuant to Federal Rules of Civil Procedure 6(b) and 26, and this Court’s inherent authority and discretion to manage its own docket, this Court has the authority to grant the requested stay. Fed. R. Civ. P. 6(b) (“When an act may or must be done within a specified time the court may, for good cause, extend the time...”); Fed. R. Civ. P. 26(a) (“A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending...The Court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.”). Therefore, this Court has broad discretion to stay proceedings as incidental to its power to control its own docket – particularly where, as here, a stay would promote judicial economy and efficiency. *Crawford-El v. Britton*, 523 U.S. 574, 598 (1998); *Sierra Club v. U.S. Army Corps of Engineers*, 446 F.3d 808, 816 (8th Cir. 2006) (citing *Clinton v. Jones*, 520 U.S. 681, 706 (1997)).

A stipulation to stay proceedings, like the Parties seek here, is an appropriate exercise of this Court’s jurisdiction. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936) (explaining a court’s

1 power to stay proceedings is incidental to its inherent power to control the disposition of the cases  
2 on its docket to save the time and effort of the court, counsel, and the parties.)

3 The power to stay proceedings is incidental to the power inherent in every court to  
4 control the disposition of the causes on its docket with economy of time and effort  
5 for itself, for counsel, and for litigants. How this can best be done calls for the  
6 exercise of judgment, which must weigh competing interests and maintain an even  
7 balance.

8 *Id.* (citing *Kansas City S. Ry. Co. v. United States*, 282 U.S. 760, 763 (1931)); *see also*, *CMAX, Inc.*  
9 *v. Hall*, 300 F.2d 268 (9th Cir. 1962) (district courts possess “inherent power to control the  
10 disposition of the cases on its docket in a manner which will promote economy of time and effort for  
11 itself, for counsel, and for litigants”); *Garlock Sealing Tech., LLC v. Pittsburgh Corning Corp. (In*  
12 *re Pittsburgh Corning Corp.)*, No. 11-1406, 11-1452, 2012 U.S. Dist. LEXIS 86193, at \*11 (W.D.  
13 Mo. June 21, 201) (noting a court’s power to stay proceedings is incidental to its power to control  
14 the disposition of the cases on its docket).

15 Furthermore, Federal Rules of Civil Procedure (26(c) and 26(d) also vest the Court with  
16 authority to limit the scope of discovery or control its sequence and may grant a stay to allow parties  
17 to negotiate a settlement. *Britton*, 523 U.S. at 598.

#### 18 **B. Good Cause Exists to Grant the Requested Stay**

19 As noted herein, the Parties have reached a settlement in principle and are currently working  
20 to finalize all necessary documentation regarding the same. As such, the Parties do not seek the stay  
21 requested herein in bad faith but instead seek to stay all proceedings in the interest of efficiency and  
22 judicial economy. Granting the stay here will unquestionably save the time and effort of this Court,  
23 counsel, and the parties, and provide counsel with an opportunity to finalize the settlement of this  
24 case without any additional litigation expense.

25 Facilitating the Parties’ efforts to resolve this dispute entirely through settlement is reasonable  
26 and constitutes good cause for granting the requested stay. The Parties agree that the relief sought  
27 herein is necessary to handle and resolve this case in the most economical fashion, and that the relief  
28 sought in this stipulation is not for delay, but in the interest of efficiency.

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### III. CONCLUSION

For the foregoing reasons, the Parties respectfully request that this Court enter a stay of all activity in this case, for a period of ninety (90) days. If Plaintiffs have not filed dismissal papers within ninety (90) days from the stay being granted, the Parties request the opportunity to file a joint status report regarding the status of the settlement.

#### IT IS SO STIPULATED.

Dated this 10<sup>th</sup> day of February 2022.

#### WETHERALL GROUP, LTD.

#### GREENBERG TRAUIG, LLP

By: /s/ Peter C. Wetherall

By: /s/ Eric W. Swanis

PETER C. WETHERALL, ESQ.  
Nevada Bar No. 4414  
9345 W. Sunset Road, Suite 100  
Las Vegas, Nevada 89148  
[pwetherall@wetherallgroup.com](mailto:pwetherall@wetherallgroup.com)

ERIC W. SWANIS, ESQ.  
Nevada Bar No. 6840  
**GREENBERG TRAUIG, LLP**  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89135  
Email: [swanise@gtlaw.com](mailto:swanise@gtlaw.com)

*Counsel for Plaintiffs*

LORI G. COHEN, ESQ.  
*Admitted Pro Hac Vice*  
**GREENBERG TRAUIG, LLP**  
3290 Northside Parkway  
Atlanta, GA 30327  
Email: [cohenl@gtlaw.com](mailto:cohenl@gtlaw.com)

C. WADE BOWDEN, ESQ.  
*Admitted Pro Hac Vice*  
**GREENBERG TRAUIG, LLP**  
777 South Flagler Drive, Suite 300 East  
West Palm Beach, FL 33401  
Telephone: (561) 650-7922  
Email: [bowdenw@gtlaw.com](mailto:bowdenw@gtlaw.com)

CHRISTOPHER J. NEUMANN, ESQ.\*  
*\*Admitted Pro Hac Vice*  
**GREENBERG TRAUIG, LLP**  
1144 15<sup>th</sup> Street, Suite 3300  
Denver, Colorado 80202  
Email: [neumannc@gtlaw.com](mailto:neumannc@gtlaw.com)

*Counsel for Defendants*

#### ORDER

IT IS ORDERED that ECF No. 73 is GRANTED. IT IS FURTHER ORDERED that a joint status report is due by 5/11/2022.

IT IS SO ORDERED

DATED: 11:45 am, February 11, 2022

  
BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that on **February 10, 2022**, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this case.

*/s/ Shermielynn Irasga*

An employee of GREENBERG TRAURIG, LLP

**GREENBERG TRAURIG, LLP**  
10845 Griffith Peak Drive  
Suite 600  
Las Vegas, Nevada 89135  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

**SERVICE LIST**

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Peter C Wetherall, Esq.  
[pwetherall@wetherallgroup.com](mailto:pwetherall@wetherallgroup.com)  
[lolson@wetherallgroup.com](mailto:lolson@wetherallgroup.com)  
[ksmith@wetherallgroup.com](mailto:ksmith@wetherallgroup.com)  
**WETHERALL GROUP, LTD.**  
9345 W. Sunset Road, Suite 100  
Las Vegas, NV 89148  
Telephone: (702) 838-8500  
Facsimile: (702) 837-5081  
***Counsel for Plaintiff***